

[Corrected Copy]

**SENATE, No. 2012**

**STATE OF NEW JERSEY**

**213th LEGISLATURE**

INTRODUCED JUNE 11, 2009

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**SYNOPSIS**

Raises cigarette tax rate from \$2.575 to \$2.70 per pack and dedicates additional revenue to the Health Care Subsidy Fund.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT raising the cigarette tax rate and dedicating additional  
2 revenue to the Health Care Subsidy Fund, amending and  
3 supplementing P.L.1948, c.65 (C.54:40A-1 et seq.) and  
4 amending P.L.1997, c.264 and P.L.2004, c.68.

5  
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*

8  
9 1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to  
10 read as follows:

11 301. Tax imposed; rate. A tax is hereby imposed on the sale,  
12 use or possession for sale or use within this State of all cigarettes at  
13 the rate of **[\$0.12875]** \$0.135 for each cigarette.  
14 (cf: P.L. 2006, c.37, s.1)

15  
16 2. (New section) a. Each licensed retail dealer under  
17 P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day  
18 of the second month after the effective date of P.L. , c.  
19 (pending before the Legislature as this bill), file a return under oath  
20 or certified under the penalties of perjury with the director on forms  
21 furnished by the director, showing the amount of cigarettes in the  
22 licensed retail dealer's possession in the State at 12:01 a.m. on the  
23 effective date of P.L. , c. (pending before the Legislature as this  
24 bill), and shall at the time of filing that return pay the tax to the  
25 director. Failure to obtain such forms shall not be an excuse for the  
26 failure to make a return containing the information required by the  
27 director.

28 b. Notwithstanding the provisions of section 401 of P.L.1948,  
29 c.65 (C.54:40A-11) to the contrary, each licensed distributor and  
30 licensed wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et  
31 seq.), shall, on or before the first day of the second month after the  
32 effective date of P.L. , c. (pending before the Legislature as this  
33 bill), file a return under oath or certified under the penalties of  
34 perjury with the director on forms furnished by the director,  
35 showing the amount of cigarettes in the dealer's or wholesaler's  
36 possession in the State at the close of business prior to the effective  
37 date of P.L. , c. (pending before the Legislature as this bill). An  
38 amount of tax shall be due equal to the additional tax on the number  
39 of cigarettes bearing stamps, and unaffixed stamps on hand. Each  
40 licensed distributor and licensed wholesale dealer shall at the time  
41 of filing that return pay the tax to the director. Failure to obtain  
42 such forms shall not be an excuse for the failure to make a return  
43 containing the information required by the director.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       3. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to  
2 read as follows:

3       4. Notwithstanding the provisions of any other law to the  
4 contrary,

5       a. commencing July 1, 1998 and ending June 30, 2006: after  
6 the deposit required pursuant to section 5 of P.L.1982, c.40  
7 (C.54:40A-37.1), the first \$150,000,000 of revenue collected  
8 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
9 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
10 annually from the "Tobacco Products Wholesale Sales and Use Tax  
11 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into  
12 the Health Care Subsidy Fund established pursuant to section 8 of  
13 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of  
14 revenue collected annually from the cigarette tax imposed pursuant  
15 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated  
16 annually for health programs, and the next \$50,000,000 of revenue  
17 collected annually from the cigarette tax imposed pursuant to  
18 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually  
19 to the New Jersey Economic Development Authority for payment of  
20 debt service incurred by the authority for school facilities projects  
21 and in fiscal years commencing July 1, 2002 and July 1, 2003, the  
22 next \$30,000,000 of revenue collected annually from the cigarette  
23 tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall  
24 be directed to the Department of Health and Senior Services to fund  
25 anti-smoking initiatives, except that the amount shall be  
26 \$40,000,000 in the fiscal year commencing July 1, 2004 and  
27 \$45,000,000 in the fiscal year commencing July 1, 2005; and

28       b. commencing with fiscal years beginning on and after July 1,  
29 2006, after the deposit required pursuant to section 5 of P.L.1982,  
30 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected  
31 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
32 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
33 annually from the "Tobacco Products Wholesale Sales and Use Tax  
34 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into  
35 the Health Care Subsidy Fund established pursuant to section 8 of  
36 P.L.1992, c.160 (C.26:2H-18.58). In addition, commencing with  
37 fiscal years beginning on and after July 1, 2006 but before July 1,  
38 2009, there shall be deposited \$215,000,000 of revenue collected  
39 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
40 (C.54:40A-1 et seq.) in accordance with the provisions of section 5  
41 of P.L.2004, c.68 (C.34:1B-21.20), and, commencing with fiscal  
42 years beginning on and after July 1, 2009, there shall be deposited  
43 \$241,500,000 of revenue collected annually from the cigarette tax  
44 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) in  
45 accordance with the provisions of section 5 of P.L.2004, c.68  
46 (C.34:1B-21.20).

47 (cf: P.L.2006, c.98, s.1)

1       4. Section 5 of P.L.2004, c.68 (C.34:1B-21.20) is amended to  
2 read as follows:

3       5. a. There is hereby created and established in the Department  
4 of the Treasury a separate nonlapsing fund to be known as the  
5 "Dedicated Cigarette Tax Revenue Fund." During the State fiscal  
6 year beginning July 1, 2006 and during each succeeding State fiscal  
7 year in which the authority has outstanding bonds or refunding  
8 bonds which have been issued pursuant to this act or is obligated to  
9 make any payments under any contract or agreement entered into by  
10 the authority pursuant to subsection c. of section 4 of this act, the  
11 State Treasurer shall credit to such Fund, on a monthly basis, an  
12 amount equivalent to the dedicated cigarette tax revenues received  
13 by the State during each calendar month of such fiscal year.  
14 Provided however, that:

15       (1) no credits of dedicated cigarette tax revenues shall be made  
16 to the Dedicated Cigarette Tax Revenue Fund in any State fiscal  
17 year until the deposits of \$150,000,000 of revenue from the  
18 cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-  
19 18.58g) into the Health Care Subsidy Fund have been fully made in  
20 such fiscal year,

21       (2) in each month of a State fiscal year beginning after the  
22 month in which the final deposits of \$150,000,000 of revenue from  
23 the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-  
24 18.58g) into the Health Care Subsidy Fund have been fully made  
25 for such fiscal year, the State Treasurer shall credit to the Dedicated  
26 Cigarette Tax Revenue Fund an amount equivalent to all revenue  
27 collected by the State from the cigarette tax during such calendar  
28 month until the amount credited to the Dedicated Cigarette Tax  
29 Revenue Fund from the beginning of such fiscal year equals the  
30 amount that would have been credited to such Fund since the  
31 beginning of such fiscal year in accordance with the preceding  
32 sentence if the deposits of \$150,000,000 of revenue from the  
33 cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-  
34 18.58g) into the Health Care Subsidy Fund were not required to  
35 have been made, and

36       (3) thereafter, in each month of a State fiscal year, the State  
37 Treasurer shall credit (a) to the Dedicated Cigarette Tax Revenue  
38 Fund an amount equivalent to the dedicated cigarette tax revenues  
39 and (b) to the Health Care Subsidy Fund an amount equivalent to all  
40 remaining revenue collected by the State from the cigarette tax  
41 during such calendar month; provided, however, that the amount so  
42 credited to the Health Care Subsidy Fund shall not exceed  
43 \$215,000,000 in the aggregate for all such months in the State fiscal  
44 year, and shall not exceed \$241,500,000 in the aggregate for all  
45 such months in State fiscal years commencing on or after July 1,  
46 2009.

47       b. In each State fiscal year during which the authority has  
48 outstanding bonds or refunding bonds which have been issued

1 pursuant to this act or is obligated to make any payments under any  
2 contract or agreement entered into by the authority pursuant to  
3 subsection c. of section 4 of this act, the State Treasurer shall pay to  
4 the authority solely from the Dedicated Cigarette Tax Revenue  
5 Fund in accordance with the provisions of any contract between the  
6 authority and the State Treasurer authorized and entered into  
7 pursuant to section 6 of this act, an amount equal to the debt service  
8 payable on the authority's then outstanding bonds or refunding  
9 bonds issued pursuant to this act during such fiscal year and any  
10 amounts required to be paid by the authority during such fiscal year  
11 under any contract or agreement entered into by the authority  
12 pursuant to subsection c. of section 4 of this act and such other  
13 additional amounts as shall be authorized by this act and required to  
14 be paid to the authority pursuant to any contract between the  
15 authority and the State Treasurer authorized and entered into  
16 pursuant to section 6 of this act; provided, however, that the  
17 payment of all such amounts to the authority shall be subject to and  
18 dependent upon appropriations being made from time to time by the  
19 Legislature of the amounts thereof for the purposes of this act.  
20 Notwithstanding any other provision of any law, rule, regulation or  
21 order to the contrary, the authority shall be paid only such amounts  
22 as shall be required by the provisions of any contract between the  
23 authority and the State Treasurer authorized and entered into  
24 pursuant to section 6 of this act and the incurrence of any obligation  
25 of the State under any such contract, including any payments to be  
26 made thereunder from the Dedicated Cigarette Tax Revenue Fund,  
27 shall be subject to and dependent upon appropriations being made  
28 from time to time by the Legislature for the purposes of this act.

29 c. If the authority no longer has outstanding bonds or refunding  
30 bonds which have been issued pursuant to this act and is no longer  
31 obligated to make any payments under any contract or agreement  
32 entered into by the authority pursuant to subsection c. of section 4  
33 of this act or to pay any other costs, fees, expenses, liabilities and  
34 other obligations incurred by the authority and the State pursuant to  
35 this act, then all monies on deposit in the Dedicated Cigarette Tax  
36 Revenue Fund shall be transferred to the General Fund.

37 (cf: P.L.2006, c.98, s.2)

38  
39 5. This act shall take effect July 1, 2009.  
40  
41

#### 42 STATEMENT

43  
44 This bill increases the cigarette tax rate by 12.5 cents per pack of  
45 20 cigarettes effective July 1, 2009. Presently, the State excise tax  
46 on cigarettes is \$0.12875 per cigarette, or \$2.575 per pack. This  
47 bill raises the tax to \$0.135 per cigarette, or \$2.70 per pack.

**S2012 CODEY**

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- 1       The bill also increases the amount of cigarette tax revenue
- 2       dedicated annually to the Health Care Subsidy Fund by \$26,500,000
- 3       beginning in State fiscal year 2010.